

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

Francisco Berlanga,

Plaintiff,

No. 2:21-cv-00949-KJM-DMC

ORDER

v.

Polaris Industries Inc., et al.,

Defendants.

The plaintiffs in this action allege defendant Polaris Industries, Inc. misrepresented the strength of the rollover protective systems on its utility terrain vehicles. *See generally* First Am. Compl., ECF No. 22. They filed their original complaint in 2021. *See generally* Compl., ECF No. 1. Another nearly identical action is currently pending in the United States District Court for the Central District of California. That action was filed about two years before this one, in 2019. *See generally* Compl., *Guzman v. Polaris Indus. Inc.*, No. 19-1543 (C.D. Cal. Aug. 8, 2019), ECF No. 1. In both cases, the plaintiffs allege Polaris falsely claimed its vehicles' rollover protective systems met "OSHA requirements of 29 CFR § 1925.53," and in both cases, a motion to certify a proposed class is pending. *See* Order at 1–2 (Aug. 1, 2023), ECF No. 97. The motions and cases involve virtually identical legal and factual disputes.

This court held a hearing on the pending motion for class certification in this case on August 11, 2023. Mins., ECF No. 103. Before that hearing, the court instructed the parties to be

1 prepared to discuss whether this case should be dismissed, stayed, or transferred to the Central  
2 District of California under the “first-to-file” rule. ECF No. 97. Plaintiff’s counsel confirmed at  
3 a hearing that a difference between the proposed class periods is the only true difference between  
4 the two cases. After considering all the parties’ arguments at hearing and reviewing again the  
5 record of this action and the *Guzman* action, the court concludes this action should be transferred  
6 to the Central District of California, as explained below.

7 The first-to-file rule is “a generally recognized doctrine of federal comity which permits a  
8 district court to decline jurisdiction over an action when a complaint involving the same parties  
9 and issues has already been filed in another district.” *Pacesetter Sys., Inc. v. Medtronic, Inc.*, 678  
10 F.2d 93, 94–95 (9th Cir. 1982). The district court in the later-filed action has discretion to  
11 “transfer, stay, or dismiss” that action. *Alltrade, Inc. v. Uniweld Prod., Inc.*, 946 F.2d 622, 623  
12 (9th Cir. 1991). This rule “is designed to avoid placing an unnecessary burden on the federal  
13 judiciary, and to avoid the embarrassment of conflicting judgments.” *Church of Scientology of*  
14 *Cal. v. U.S. Dep’t of Army*, 611 F.2d 738, 750 (9th Cir. 1979), *overruled in part on other grounds*  
15 by *Animal Legal Def. Fund v. U.S. Food & Drug Admin.*, 836 F.3d 987 (9th Cir. 2016) (per  
16 curiam) (en banc). It “should not be disregarded lightly.” *Alltrade*, 946 F.2d at 625 (quoting  
17 *Church of Scientology*, 611 F.2d at 750). The court in the later-filed case considers the  
18 “chronology of the lawsuits, similarity of the parties, and similarity of the issues.” *Kohn Law*  
19 *Group, Inc. v. Auto Parts Mfg. Mississippi, Inc.*, 787 F.3d 1237, 1240 (9th Cir. 2015). In  
20 proposed class actions like this one, the court compares the classes, not the class representatives.  
21 *Ross v. U.S. Bank Nat'l Ass'n*, 542 F. Supp. 2d 1014, 1020 (N.D. Cal. 2008) (citing Cal. Jur. 3d  
22 Actions § 284); *Adoma v. Univ. of Phoenix, Inc.*, 711 F. Supp. 2d 1142, 1147 (E.D. Cal. 2010).

23 The first-to-file rule applies squarely to this case. It was filed after the *Guzman* action.  
24 The two cases also turn on virtually identical factual and legal issues. But for the differing  
25 proposed class periods, the proposed classes would be identical. No party contends otherwise.  
26 For two courts to move forward simultaneously risks not only a significant duplication of effort  
27 but also inconsistent and potentially conflicting resolutions.

1           The court declines to dismiss this action, as it has progressed alongside the *Guzman* action  
2 apace. The court also declines to stay this action. A stay would likely lead to unnecessary delay.  
3 A transfer is the most efficient and fairest means of avoiding wasted effort, delays, and  
4 inconsistent or conflicting resolutions. The parties and the Central District court may determine  
5 how best to litigate the two cases, such as by reassignment to the same judge, coordination of  
6 scheduling and hearings, consolidation and other means.

7           In conclusion, this action is **transferred** to the United States District Court for the Central  
8 District of California under the first-to-file rule.

9           IT IS SO ORDERED.

10          DATED: August 28, 2023.

  
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CHIEF UNITED STATES DISTRICT JUDGE